

109TH CONGRESS  
1ST SESSION

# H. R. 257

To amend the Immigration and Nationality Act to reunify families, permit earned access to permanent resident status, provide protection against unfair immigration-related employment practices, reform the diversity visa program, provide adjustment of status for Haitians and Liberian nationals, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2005

Ms. JACKSON-LEE of Texas introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to reunify families, permit earned access to permanent resident status, provide protection against unfair immigration-related employment practices, reform the diversity visa program, provide adjustment of status for Haitians and Liberian nationals, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Comprehensive Immi-  
5       gration Fairness Act”.

1 **TITLE I—FAMILY REUNIFICA-**  
2 **TION AND DISCRETIONARY**  
3 **RELIEF**

4 **SEC. 101. PERMANENT APPLICATION OF SECTION 245(i).**

5 Section 245(i) of the Immigration and Nationality  
6 Act (8 U.S.C. 1255(i)) is amended—

7 (1) by inserting “and” at the end of paragraph  
8 (1)(A);

9 (2) by amending paragraph (1)(B) to read as  
10 follows:

11 “(B) who is the beneficiary (including a  
12 spouse or child of the principal alien) of—

13 “(i) a petition for classification under  
14 section 204; or

15 “(ii) an application for a labor certifi-  
16 cation under section 212(a)(5)(A);”;

17 (3) by striking paragraph (1)(C); and

18 (4) by striking “Attorney General” each place  
19 such term appears and inserting “Secretary of  
20 Homeland Security”.

1 **SEC. 102. DISCRETIONARY WAIVER OF INADMISSIBILITY**  
2 **BASED ON UNLAWFUL PRESENCE, FAILURE**  
3 **TO ATTEND REMOVAL PROCEEDINGS, AND**  
4 **MISREPRESENTATIONS.**

5 (a) IN GENERAL.—Section 212(i) of the Immigration  
6 and Nationality Act (8 U.S.C. 1182(i)) is amended to read  
7 as follows:

8 “(i) The Secretary of Homeland Security may waive  
9 the application of subparagraph (A)(i) or (B), or clause  
10 (i) or (ii) of subparagraph (C), of subsection (a)(6) in the  
11 case of an immigrant who is the parent, spouse, son, or  
12 daughter of a United States citizen or of an alien lawfully  
13 admitted to the United States for permanent residence,  
14 if it is established to the satisfaction of the Secretary that  
15 the refusal of admission to the United States of such im-  
16 migrant would result in hardship to the immigrant or to  
17 such citizen or lawful permanent resident parent, spouse,  
18 son, or daughter.”.

19 (b) CONFORMING AMENDMENTS.—Section 212(a)(6)  
20 of such Act (8 U.S.C. 1182(a)(6)) is amended—

21 (1) in subparagraph (A), by adding at the end  
22 the following:

23 “(iii) WAIVER AUTHORIZED.—For a  
24 provision authorizing the waiver of clause  
25 (i), see subsection (i).”;

26 (2) in subparagraph (B)—

1 (A) by inserting “(i)” after the subpara-  
 2 graph heading; and

3 (B) by adding at the end the following:

4 “(ii) WAIVER AUTHORIZED.—For a  
 5 provision authorizing the waiver of clause  
 6 (i), see subsection (i).”; and

7 (3) in subparagraph (C)(iii), by inserting “or  
 8 (ii)” after “(i)”.

9 **SEC. 103. GENERAL WAIVER FOR ALIENS PREVIOUSLY RE-**  
 10 **MOVED AND FOR THE UNLAWFUL PRESENCE**  
 11 **BARS.**

12 (a) IN GENERAL.—Section 212(d) of the Immigra-  
 13 tion and Nationality Act (8 U.S.C. 1182(d)) is amended  
 14 by adding at the end the following:

15 “(14) The Secretary of Homeland Security may, in  
 16 the discretion of the Secretary, for humanitarian purposes,  
 17 to assure family unity, or when it is otherwise in the public  
 18 interest, waive the application of subparagraph (A) or  
 19 (B)(i) of subsection (a)(9).”.

20 (b) CONFORMING AMENDMENT.—Section  
 21 212(a)(9)(B) of such Act (8 U.S.C. 1182(a)(9)(B)) is  
 22 amended by striking clause (v).

1 **SEC. 104. ADDRESSING THE PROBLEM OF VISA NUMBER**  
2 **BACKLOGS FOR THE FAMILY MEMBERS OF**  
3 **CITIZENS AND LAWFUL PERMANENT RESI-**  
4 **DENTS.**

5 (a) CLASSES OF NONIMMIGRANT ALIENS.—Section  
6 101(a)(15)(K) of the Immigration and Nationality Act (8  
7 U.S.C. 1101(a)(15)(K)) is amended—

8 (1) by striking “or” at the end of clause (ii);

9 (2) by adding “or” at the end of clause (iii);

10 and

11 (3) by adding at the end the following:

12 “(iv)(I) has concluded a valid mar-  
13 riage with an alien lawfully admitted for  
14 permanent residence, is the parent of a cit-  
15 izen of the United States, or is the son or  
16 daughter of an alien lawfully admitted for  
17 permanent residence or a citizen of the  
18 United States; (II) is the beneficiary of a  
19 petition to accord immigrant status on the  
20 basis of such family relationship that was  
21 filed under section 204 by such family  
22 member; (III) has waited more than 6  
23 months for the approval of such petition or  
24 the availability to the alien of an immi-  
25 grant visa; and (IV) seeks to enter the  
26 United States to await the approval of

1                   such petition and the availability to the  
2                   alien of an immigrant visa;”.

3           (b)   ADMISSION   OF   NONIMMIGRANTS.—Section  
4   214(d) of such Act (8 U.S.C. 1184(d)) is amended—

5                   (1) by striking “(d)” and inserting “(d)(1)”;  
6           and

7                   (2) by adding at the end the following:

8           “(2) A visa shall not be issued under the provisions  
9   of section 101(a)(15)(K)(iv) until the consular officer has  
10   received a petition filed in the United States by the lawful  
11   permanent resident or citizen relative of the applying alien  
12   and approved by the Secretary of Homeland Security. The  
13   petition shall be in such form and contain such informa-  
14   tion as the Secretary shall, by regulation, prescribe.”.

15   **SEC. 105. WAIVER OF AGGRAVATED FELONY CON-**  
16                   **SEQUENCES.**

17           Section 101 of the Immigration and Nationality Act  
18   (8 U.S.C. 1101) is amended by adding at the end the fol-  
19   lowing:

20           “(j) For purposes of this Act, and notwithstanding  
21   subsection (a)(43), the Secretary of Homeland Security  
22   may treat any conviction that did not result in incarcer-  
23   ation for more than 1 year as if such conviction were not  
24   a conviction for an aggravated felony. This discretion may

1 be exercised for humanitarian purposes, to assure family  
 2 unity, or when it is otherwise in the public interest.”.

3 **SEC. 106. AGE-OUT PROTECTION FOR CHILDREN.**

4 (a) IN GENERAL.—Chapter 1 of title IV of the Immi-  
 5 gration and Nationality Act (8 U.S.C. 1101 note) is  
 6 amended by adding at the end the following:

7 “AGE-OUT PROTECTION FOR CHILDREN

8 “SEC. 408. (a) IN GENERAL.—In the case of an ap-  
 9 plication initially to grant a benefit under this Act (other  
 10 than an application for naturalization) that otherwise  
 11 would be granted only after a determination that the bene-  
 12 ficiary of the application is a child (such as classification  
 13 as an immediate relative under section 201(b)(2)(A)(i)),  
 14 if the application is neither approved nor denied (on proce-  
 15 dural or substantive grounds) during the 90-day period  
 16 beginning on the date of the filing of the application, the  
 17 beneficiary shall be considered to be a child for all pur-  
 18 poses related to the receipt of the benefit if the beneficiary  
 19 was a child on the last day of such 90-day period, and  
 20 the beneficiary shall not otherwise be prejudiced with re-  
 21 spect to such determination by such delay, and shall be  
 22 considered to be a child under this Act for all purposes  
 23 related to such application.

24 “(b) TERMINATION OF BENEFIT.—Subsection (a)  
 25 shall remain in effect until the termination of the 1-year

1 period beginning on the date on which the application de-  
 2 scribed in such paragraph is approved.”.

3 (b) CLERICAL AMENDMENT.—The table of contents  
 4 for the Immigration and Nationality Act is amended by  
 5 inserting after the item relating to section 407 the fol-  
 6 lowing:

“408. Age-out protection for children.”.

7 **SEC. 107. TIMELINESS OF ADOPTION FOR IMMIGRATION**  
 8 **PURPOSES.**

9 (a) IN GENERAL.—Section 101(b)(1)(E)(i) of the  
 10 Immigration and Nationality Act (8 U.S.C.  
 11 1101(b)(1)(E)(i)) is amended by striking “a child adopted  
 12 while under the age of sixteen years” and inserting “a  
 13 child, under the age of 16 when adoption proceedings were  
 14 initiated,”.

15 (b) SPECIAL RULE FOR SIBLINGS.—Section  
 16 101(b)(1)(E)(ii)(III) of such Act (8 U.S.C.  
 17 1101(b)(1)(E)(ii)(III)) is amended by striking “adopted  
 18 while under the age of 18 years” and inserting “under  
 19 the age of 18 when adoption proceedings were initiated”.

20 **SEC. 108. DISCRETIONARY WAIVER TO ADMIT PERSONS IN**  
 21 **UNUSUAL CIRCUMSTANCES.**

22 (a) NEW GENERAL WAIVER.—Section 212(d) of the  
 23 Immigration and Nationality Act (8 U.S.C. 1182(d)) is  
 24 amended by adding at the end the following:



“(13) The Secretary of Homeland Security may, in the discretion of such Secretary for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive the application of subparagraph (B) or (G) of subsection (a)(6), clause (i) or (ii) of subsection (a)(9)(A), or subsection (a)(9)(B)(i), in unusual circumstances. For purposes of the preceding sentence, an instance of battering or extreme cruelty is deemed to constitute unusual circumstances in the case where it is inflicted on an alien (or a child of an alien) by the alien’s United States citizen or lawful permanent resident spouse, parent, child, son, or daughter.”.

(b) WAIVER FOR ALIENS PREVIOUSLY REMOVED.—

(1) CERTAIN ALIENS PREVIOUSLY REMOVED.—Section 212(a)(9)(A) of such Act (8 U.S.C. 1182(a)(9)(A)) is amended by adding at the end the following:

“(iv) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i) or (ii), see subsection (d)(13).”.

(2) ALIENS UNLAWFULLY PRESENT.—Section 212(a)(9)(B)(v) of such Act (8 U.S.C. 1182(A)(9)(B)(v)) is amended to read as follows:

1 “(v) WAIVER AUTHORIZED.—For pro-  
 2 vision authorizing waiver of clause (i), see  
 3 subsection (d)(13).”.

4 **TITLE II—EARNED ACCESS TO**  
 5 **LEGALIZATION AND REG-**  
 6 **ISTRY UPDATE**

7 **SEC. 201. ADJUSTMENT OF STATUS ON THE BASIS OF**  
 8 **EARNED ACCESS TO LEGALIZATION.**

9 (a) IN GENERAL.—Chapter 5 of title II of the Immi-  
 10 gration and Nationality Act (8 U.S.C. 1255 et seq.) is  
 11 amended by inserting after section 245A the following:

12 “ADJUSTMENT OF STATUS ON THE BASIS OF EARNED  
 13 ACCESS TO LEGALIZATION

14 “SEC. 245B. (a) IN GENERAL.—The Secretary of  
 15 Homeland Security may adjust the status of an alien to  
 16 that of an alien lawfully admitted for permanent residence  
 17 if the alien—

18 “(1) was physically present in the United  
 19 States for a continuous period of not less than 5  
 20 years immediately preceding the date on which this  
 21 provision was enacted and has maintained contin-  
 22 uous physical presence since then;

23 “(2) has at all times been a person of good  
 24 moral character;

25 “(3) has never been convicted of a criminal of-  
 26 fense in the United States;

1           “(4) in the case of an alien who is 18 years of  
2           age or older, but who is not over the age of 65, has  
3           successfully completed a course on reading, writing,  
4           and speaking words in ordinary usage in the English  
5           language, unless unable to do so on account of phys-  
6           ical or developmental disability or mental impair-  
7           ment;

8           “(5) in the case of an alien 18 years of age or  
9           older, has accepted the values and cultural life of the  
10          United States; and

11          “(6) in the case of an alien 18 years of age or  
12          older, has performed at least 40 hours of community  
13          service.

14          “(b) TREATMENT OF BRIEF, CASUAL, AND INNO-  
15          CENT ABSENCES.—An alien shall not be considered to  
16          have failed to maintain a continuous presence in the  
17          United States for purposes of subsection (a)(1) by virtue  
18          of brief, casual, and innocent absences from the United  
19          States.

20          “(c) ADMISSIBLE AS IMMIGRANT.—

21                 “(1) IN GENERAL.—The alien shall establish  
22                 that the alien is admissible to the United States as  
23                 immigrant, except as otherwise provided in para-  
24                 graph (2).

1           “(2) EXCEPTIONS.—The provisions of para-  
2       graphs (5), (6)(A), (6)(B), (6)(C), (6)(F), (6)(G),  
3       (7)(A), (9)(B), and (9)(C)(i)(I) of section 212(a)  
4       shall not apply in the determination of an alien’s ad-  
5       missibility under this section.

6       “(d) SECURITY AND LAW ENFORCEMENT CLEAR-  
7       ANCES.—The alien, if over 15 years of age, shall submit  
8       fingerprints in accordance with procedures established by  
9       the Secretary of Homeland Security. Such fingerprints  
10      shall be submitted to relevant Federal agencies to be  
11      checked against existing databases for information relat-  
12      ing to criminal, national security, or other law enforce-  
13      ment actions that would render the alien ineligible for ad-  
14      justment of status under this section. The Secretary of  
15      Homeland Security shall provide a process for challenging  
16      the accuracy of matches that result in a finding of ineligi-  
17      bility for adjustment of status.

18      “(e) INAPPLICABILITY OF NUMERICAL LIMITA-  
19      TIONS.—When an alien is granted lawful permanent resi-  
20      dent status under this subsection, the number of immi-  
21      grant visas authorized to be issued under any provision  
22      of this Act shall not be reduced. The numerical limitations  
23      of sections 201 and 202 shall not apply to adjustment of  
24      status under this section.

1       “(f) TERMINATION OF PROCEEDINGS.—The Sec-  
 2       retary of Homeland Security may terminate removal pro-  
 3       ceedings without prejudice pending the outcome of an  
 4       alien’s application for adjustment of status under this sec-  
 5       tion on the basis of a prima facie showing of eligibility  
 6       for relief under this section.”.

7       (b) CLERICAL AMENDMENT.—The table of contents  
 8       for the Immigration and Nationality Act is amended by  
 9       inserting after the item relating to section 245A the fol-  
 10      lowing:

“245B. Adjustment of status on the basis of earned access to legalization.”.

11   **SEC. 202. AUTHORITY TO ADJUST STATUS OF CERTAIN**  
 12                           **CHILDREN.**

13       (a) IN GENERAL.—Chapter 5 of title II of the Immi-  
 14       gration and Nationality Act (8 U.S.C. 1255 et seq.), as  
 15       amended by section 201, is further amended by inserting  
 16       after section 245B the following:

17       “ADJUSTMENT OF STATUS FOR CERTAIN CHILDREN

18       “SEC. 245C. (a) IN GENERAL.—The Secretary of  
 19       Homeland Security may adjust the status of an alien to  
 20       that of an alien lawfully admitted for permanent residence  
 21       if the alien is a child at the time of filing the application  
 22       for such adjustment and establishes that the alien, at such  
 23       time—

24               “(1) has been physically present and enrolled in  
 25       school in the United States for a continuous period

1 of not less than 5 years immediately preceding the  
2 date of such application, and during that period has  
3 been a person of good moral character;

4 “(2) has fully integrated into life in the United  
5 States;

6 “(3) has learned English or is satisfactorily  
7 pursuing a course of study to achieve an under-  
8 standing of English;

9 “(4) is successfully pursuing an elementary  
10 school, middle school, high school, or college-level  
11 education; and

12 “(5) if older than 13 years of age, has per-  
13 formed at least 60 hours of community service.

14 “(b) TREATMENT OF BRIEF, CASUAL, AND INNO-  
15 CENT ABSENCES.—An alien shall not be considered to  
16 have failed to maintain a continuous presence in the  
17 United States for purposes of subsection (a)(1) by virtue  
18 of brief, casual, and innocent absences from the United  
19 States.

20 “(c) ADMISSIBLE AS IMMIGRANT.—

21 “(1) IN GENERAL.—The alien shall establish  
22 that the alien is admissible to the United States as  
23 an immigrant, except as otherwise provided in para-  
24 graph (2).

1           “(2) APPLICABILITY OF CERTAIN PROVI-  
2       SIONS.—

3           “(A) GROUNDS OF INADMISSIBILITY NOT  
4       APPLIED.—The provisions of paragraphs (5),  
5       (6)(A), (6)(B), (6)(C), (6)(F), (6)(G), (7)(A),  
6       (9)(B), and (9)(C) of section 212(a) shall not  
7       apply in the determination of an alien’s admis-  
8       sibility under this section.

9           “(B) WAIVER OF OTHER GROUNDS.—

10          “(i) IN GENERAL.—Except as pro-  
11       vided in clause (ii), the Secretary of Home-  
12       land Security may waive any other provi-  
13       sion of section 212(a) in the case of an in-  
14       dividual alien for humanitarian purposes,  
15       to assure family unity, or when it is other-  
16       wise in the public interest.

17          “(ii) GROUNDS THAT MAY NOT BE  
18       WAIVED.—The following provisions of sec-  
19       tion 212(a) may not be waived by the Sec-  
20       retary under clause (i):

21               “(I) Paragraphs (2)(A) and  
22               (2)(B) (relating to criminals).

23               “(II) Paragraph (2)(C) (relating  
24               to drug offenses), except for so much  
25               of such paragraph as relates to a sin-

1                   gle offense of simple possession of 30  
2                   grams or less of marijuana.

3                   “(III) Paragraph (3) (relating to  
4                   security and related grounds).

5           “(d) NO NUMERICAL LIMITATIONS.—The numerical  
6 limitations of sections 201 and 202 shall not apply to ad-  
7 justment of status under this section.

8           “(e) CONFIDENTIALITY OF INFORMATION.—Except  
9 as provided in this section, neither the Secretary of Home-  
10 land Security, nor any other official or employee of the  
11 Department of Homeland Security, may—

12                   “(1) use information furnished by applicant for  
13 an application filed under this section for any pur-  
14 pose other than to make a determination on the ap-  
15 plication;

16                   “(2) make any publication whereby the infor-  
17 mation furnished by any particular applicant can be  
18 identified; or

19                   “(3) permit anyone other than the sworn offi-  
20 cers and employees of the Department, the appli-  
21 cant, or a representative of the applicant to examine  
22 individual applications.

23           “(f) DISSEMINATION OF INFORMATION.—The Sec-  
24 retary of Homeland Security shall broadly disseminate in-  
25 formation respecting the benefits which aliens may receive



1 under this section and the requirements to obtain such  
2 benefits.”.

3 (b) CLERICAL AMENDMENT.—The table of contents  
4 for the Immigration and Nationality Act, as amended by  
5 section 201, is amended further by inserting after the item  
6 relating to section 245B the following:

“245C. Adjustment of status for certain children.”.

7 **SEC. 203. RECORD OF ADMISSION FOR PERMANENT RESI-**  
8 **DENCE IN THE CASE OF CERTAIN ALIENS.**

9 (a) IN GENERAL.—Section 249 of the Immigration  
10 and Nationality Act (8 U.S.C. 1259) is amended—

11 (1) in the section heading by striking “1972”  
12 and inserting “1986”; and

13 (2) in paragraph (a), by striking “1972” and  
14 inserting “1986”.

15 (b) CLERICAL AMENDMENT.—The table of sections  
16 is amended in the item relating to section 249 by striking  
17 “1972” and inserting “1986”.

18 **TITLE III—EMPLOYEE**  
19 **PROTECTIONS**

20 **SEC. 301. UNFAIR IMMIGRATION-RELATED EMPLOYMENT**  
21 **PRACTICES.**

22 Section 274B of the Immigration and Nationality Act  
23 (8 U.S.C. 1324b) is amended—

24 (1) in subsection (a)(5)—

1 (A) by amending the paragraph heading to  
2 read “Prohibition of intimidation, retaliation, or  
3 unlawful discrimination in employment”;

4 (B) by moving the text down and to the  
5 right 2 ems;

6 (C) by inserting before such text the fol-  
7 lowing: “(A) In general.—”; and

8 (D) by adding at the end the following:

9 “(B) FEDERAL LABOR OR EMPLOYMENT  
10 LAWS.—It is an unfair employment practice for  
11 any employer to directly or indirectly threaten  
12 any individual with removal or any other ad-  
13 verse consequences pertaining to that individ-  
14 ual’s immigration status or employment bene-  
15 fits for the purpose of intimidating, pressuring,  
16 or coercing any such individual not to exercise  
17 any right protected by state or federal labor or  
18 employment law (including section 7 of the Na-  
19 tional Labor Relations Act (29 U.S.C. 157)), or  
20 for the purpose of retaliating against any such  
21 individual for having exercised or having stated  
22 an intention to exercise any such right.

23 “(C) DISCRIMINATION BASED ON IMMIGRA-  
24 TION STATUS.—It is an unfair employment  
25 practice for any employer, except to the extent

1 specifically authorized or required by law, to  
2 discriminate in any term or condition of em-  
3 ployment against any individual employed by  
4 such employer on the basis of such individual's  
5 immigration status.”; and

6 (2) in subsection (c)(2), by adding at the end  
7 the following: “The Special Counsel shall not dis-  
8 close to the Secretary of Homeland Security or any  
9 other government agency or employee, and shall not  
10 cause to be published in a manner that discloses to  
11 the Secretary of Homeland Security or any other  
12 government agency or employee, any information ob-  
13 tained by the Special Counsel in any manner con-  
14 cerning the immigration status of any individual who  
15 has filed a charge under this section, or the identity  
16 of any individual or entity that is a party or witness  
17 to a proceedings brought pursuant to such charge.  
18 The Secretary of Homeland Security may not rely,  
19 in whole or in part, in any enforcement action or re-  
20 moval proceeding, upon any information obtained as  
21 a result of the filing or prosecution of an unfair im-  
22 migration-related employment practice charge. For  
23 purposes of this paragraph, the term ‘Special Coun-  
24 sel’ includes individuals formerly appointed to the  
25 position of Special Counsel and any current or

1 former employee of the office of the Special Counsel.  
2 Whoever knowingly uses, publishes, or permits infor-  
3 mation to be used in violation of this paragraph  
4 shall be fined not more than \$10,000”.

5 **SEC. 302. DEPARTMENT OF LABOR TASK FORCE.**

6 The Secretary of Labor, in consultation with the At-  
7 torney General and the Secretary of Homeland Security,  
8 shall conduct a national study of American workplaces to  
9 determine the causes, extent, circumstances, and con-  
10 sequences, of exploitation of undocumented alien workers  
11 by their employers. As part of this study, the Secretary  
12 of Labor shall create a plan for targeted review of federal  
13 labor law enforcement in industries with a substantial im-  
14 migrant workforce, for the purpose of identifying, moni-  
15 toring, and deterring frequent or egregious violators of  
16 wage and hour, anti-discrimination, National Labor Rela-  
17 tions Act, and workplace safety and health requirements.  
18 Not later than 18 months after the date of the enactment  
19 of this Act, the Secretary of Labor shall submit to the  
20 Congress a report describing the results of the study and  
21 the Secretary’s recommendations based on the study.

22 **SEC. 303. RECRUITMENT OF AMERICAN WORKERS.**

23 Section 214 of the Immigration and Nationality Act  
24 is amended—

1           (1) by redesignating subsections (m) (as added  
2       by section 105 of Public Law 106–313), (n) (as  
3       added by section 107(e) of Public Law 106–386),  
4       (o) (as added by section 1513(c) of Public Law 106–  
5       386), (o) (as added by section 1102(b) of the Legal  
6       Immigration Family Equity Act), and (p) (as added  
7       by section 1503(b) of the Legal Immigration Family  
8       Equity Act) as subsections (n), (o), (p), (q), and (r),  
9       respectively; and

10           (2) by adding at the end the following:

11       “(s)(1) No petition to accord employment status  
12       under any nonimmigrant classification described in section  
13       101(a)(15) shall be granted in the absence of an affidavit  
14       from the petitioner describing the efforts that were made  
15       to recruit an alien lawfully admitted for permanent resi-  
16       dence or a citizen of the United States before resorting  
17       to a petition to obtain a foreign employee. The recruitment  
18       efforts must have included substantial attempts to find  
19       employees in minority communities. Recruitment efforts in  
20       minority communities should include at least one of the  
21       following, if appropriate for the employment being adver-  
22       tised:

23           “(A) Advertise the availability of the job oppor-  
24       tunity for which the employer is seeking a worker in  
25       local newspapers in the labor market that is likely

1 to be patronized by a potential worker for at least  
2 5 consecutive days.

3 “(B) Undertake efforts to advertise the avail-  
4 ability of the job opportunity for which the employer  
5 is seeking a worker through advertisements in public  
6 transportation systems.

7 “(C) To the extent permitted by local laws and  
8 regulations, engage in recruitment activities in sec-  
9 ondary schools, recreation centers, community cen-  
10 ters, and other places throughout the communities  
11 within 50 miles of the job site that serve minorities.

12 “(2)(A) The Secretary of Homeland Security shall  
13 impose a 10 percent surcharge on all fees collected for pe-  
14 titions to accord employment status and shall use these  
15 funds to establish an employment training program which  
16 will include unemployed workers in the United States who  
17 need to be trained or retrained. The purpose of this pro-  
18 gram shall be to increase the number of lawful permanent  
19 residents and citizens of the United States who are avail-  
20 able for employment in the occupations that are the sub-  
21 jects of such petitions. At least 50 percent of the funds  
22 generated by this provision must be used to train Amer-  
23 ican workers in rural and inner city areas.

24 “(B) The Secretary of Homeland Security shall re-  
25 serve and make available to the Secretary of Labor a por-

tion of the funds collected under this paragraph. Such funds shall be used by the Secretary of Labor to establish an ‘Office to Preserve American Jobs’ within the Department of Labor. The purpose of this office shall be to establish policies intended to ensure that employers in the United States will hire available workers in the United States before resorting to foreign labor, giving substantial emphasis to hiring minority workers in the United States.”.

## **TITLE IV—DIVERSITY VISAS**

### **SEC. 401. INCREASE IN WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.**

Section 201(e) of the Immigration and Nationality Act (8 U.S.C. 1151(e)) is amended by striking “55,000” and inserting “110,000”.

### **SEC. 402. PERIOD DESIGNATED FOR APPLICATION.**

Section 203(e)(1) of the Immigration and Nationality Act (8 U.S.C. 1153(e)(1)) is amended—

(1) by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”; and

(2) by adding at the end the following: “The Secretary shall provide for a filing system that will permit unlimited filing throughout the entire period designated for the filing of petitions. If an electronic

1 filing system is chosen, the Secretary shall ensure  
2 that the computer equipment and software used to  
3 accept the filed petitions will have the capacity to ac-  
4 cept every application that is submitted during the  
5 period designated for filing the petitions. In the  
6 event that petitions submitted during the designated  
7 period are rejected, the designated period will be ex-  
8 tended for an additional 10-day period.”

## 9 **TITLE V—HAITIAN PARITY**

### 10 **SEC. 501. ADJUSTMENT OF STATUS FOR HAITIANS.**

11 (a) IN GENERAL.—Chapter 5 of title II of the Immi-  
12 gration and Nationality Act (8 U.S.C. 1255 et seq.), as  
13 amended by section 202, is further amended by inserting  
14 after section 245C the following:

15 “ADJUSTMENT OF STATUS OF CERTAIN HAITIAN  
16 NATIONALS

17 “SEC. 245D. Notwithstanding the provisions of sec-  
18 tion 245(c), the status of any alien who is a national or  
19 citizen of Haiti, and who has been physically present in  
20 the United States for at least one year, may be adjusted  
21 by the Secretary of Homeland Security, in the Secretary’s  
22 discretion and under such regulations as the Secretary  
23 may prescribe, to that of an alien lawfully admitted for  
24 permanent residence, if the alien makes an application for  
25 such adjustment and the alien is eligible to receive an im-  
26 migrant visa and is admissible to the United States for



1 permanent residence. Upon approval of such an applica-  
 2 tion for adjustment of status, the Secretary shall create  
 3 a record of the alien’s admission for permanent residence  
 4 as of a date 30 months prior to the filing of such an appli-  
 5 cation or the date of the alien’s last arrival into the United  
 6 States, whichever date is later. The provisions of this Act  
 7 shall be applicable to the spouse and child of any alien  
 8 described in this section, regardless of their citizenship  
 9 and place of birth, if the spouse or child is residing with  
 10 such alien in the United States.”.

11 (b) CLERICAL AMENDMENT.—The table of contents  
 12 for the Immigration and Nationality Act, as amended by  
 13 section 202, is further amended by inserting after the item  
 14 relating to section 245C the following:

“245D. Adjustment of status of certain Haitian nationals.”.

15 (c) SUNSET.—The amendments made by this section  
 16 shall cease to be effective on the date that is 3 years after  
 17 the date of the enactment of this Act.

18 **SEC. 502. LIMITATION OF ATTORNEY GENERAL’S BOND DIS-**  
 19 **CRETION.**

20 Section 236 of the Immigration and Nationality Act  
 21 (8 U.S.C. 1226) is amended by adding at the end the fol-  
 22 lowing:

23 “(f) EXERCISE OF AUTHORITY FOR ARREST, DETEN-  
 24 TION, AND RELEASE.—The Secretary of Homeland Secu-  
 25 rity shall exercise the discretion afforded under subsection

1 (a) on a case-by-case basis. If bond is to be denied on  
 2 the ground that the alien’s release would give rise to ad-  
 3 verse consequences for national security or national immi-  
 4 gration policy, the finding of such adverse consequences  
 5 shall be based on circumstances pertaining to the indi-  
 6 vidual alien whose release is being considered.”.

7 **SEC. 503. ELIMINATION OF MANDATORY DETENTION IN EX-**  
 8 **PEDITED REMOVAL PROCEEDINGS.**

9 Section 235(b)(1)(B)(iii)(IV) of the Immigration and  
 10 Nationality Act (8 U.S.C. 1225(b)(1)(B)(iii)(IV)) is  
 11 amended to read as follows:

12 “(IV) DETENTION.—Aliens sub-  
 13 ject to the procedures under this  
 14 clause shall be detained in accordance  
 15 with section 236.”.

16 **SEC. 504. AMENDMENTS TO HAITIAN AND IMMIGRANT**  
 17 **FAIRNESS ACT OF 1998.**

18 (a) GROUND FOR INADMISSIBILITY FOR DOCUMENT  
 19 FRAUD DOES NOT APPLY.—The Haitian Refugee Immi-  
 20 gration Fairness Act of 1998 (8 U.S.C. 1255 note) is  
 21 amended in subsections (a)(1)(B) and (d)(1)(D) of section  
 22 902 by inserting “(6)(C)(i),” after “(6)(A),”.

23 (b) DETERMINATIONS WITH RESPECT TO CHIL-  
 24 DREN.—Section 902(d) of such Act is amended by adding  
 25 at the end the following:

1           “(3) DETERMINATIONS WITH RESPECT TO  
2 CHILDREN.—

3           “(A) USE OF APPLICATION FILING  
4 DATE.—Determinations made under this sub-  
5 section as to whether an individual is a child of  
6 a parent shall be made using the age and status  
7 of the individual on the date of the enactment  
8 of this section.

9           “(B) APPLICATION SUBMISSION BY PAR-  
10 ENT.—Notwithstanding paragraph (1)(C), an  
11 application under this subsection filed based on  
12 status as a child may be filed for the benefit of  
13 such child by a parent or guardian of the child,  
14 if the child is physically present in the United  
15 States on such filing date.”.

16 **SEC. 505. NEW APPLICATIONS AND MOTIONS TO REOPEN.**

17       (a) NEW APPLICATIONS.—Notwithstanding section  
18 902(a)(1)(A) of the Haitian and Immigrant Fairness Act  
19 of 1998, an alien who is eligible for adjustment of status  
20 under such Act, as amended by section 504 of this Act,  
21 may submit an application for adjustment of status under  
22 such Act not later than the later of—

23           (1) 2 years after the date of the enactment of  
24 this Act; and

1           (2) 1 year after the date on which final regula-  
2           tions implementing section 504 are promulgated.

3           (b) MOTIONS TO REOPEN.—The Secretary of Home-  
4           land Security shall establish procedures for the reopening  
5           and reconsideration of applications for adjustment of sta-  
6           tus under the Haitian Refugee Immigration Fairness Act  
7           of 1998 that are affected by the amendments under sec-  
8           tion 504 of this Act.

9           (c) RELATIONSHIP OF APPLICATION TO CERTAIN OR-  
10          DERS.—Section 902(a)(3) of the Haitian and Immigrant  
11          Fairness Act of 1998 shall apply to an alien present in  
12          the United States who has been ordered excluded, de-  
13          ported, removed, or ordered to depart voluntarily, and who  
14          files an application under subsection (a), or a motion  
15          under subsection (b), in the same manner as such section  
16          902(a)(3) applied to aliens filing applications for adjust-  
17          ment of status under such Act before April 1, 2000.

18       **SEC. 506. SENSE OF CONGRESS REGARDING TEMPORARY**  
19               **PROTECTED STATUS FOR HAITIANS.**

20           It is the sense of the Congress that the Secretary of  
21          Homeland Security should be more liberal with respect to  
22          Haiti in deciding whether to designate that country for  
23          temporary protected status under section 244(b)(1)(A) of  
24          the Immigration and Nationality (8 U.S.C.  
25          1254(b)(1)(A)). It is the sense of the Congress that this

1 decision has sometimes been made without due regard to  
2 the serious threat to personal safety that results from  
3 sending Haitians back to Haiti during a period of ongoing  
4 armed conflict in that country.

5 **TITLE VI—LIBERIAN REFUGEE**  
6 **RELIEF**

7 **SEC. 601. ADJUSTMENT OF STATUS OF CERTAIN LIBERIAN**  
8 **NATIONALS.**

9 (a) ADJUSTMENT OF STATUS.—

10 (1) IN GENERAL.—Notwithstanding section  
11 245(c) of the Immigration and Nationality Act, the  
12 status of any alien described in subsection (b) shall  
13 be adjusted by the Secretary of Homeland Security  
14 to that of an alien lawfully admitted for permanent  
15 residence, if the alien—

16 (A) applies for such adjustment before  
17 April 1, 2005; and

18 (B) is otherwise eligible to receive an im-  
19 migrant visa and is otherwise admissible to the  
20 United States for permanent residence, except  
21 in determining such admissibility the grounds  
22 for inadmissibility specified in paragraphs (4),  
23 (5), (6)(A), and (7)(A) of section 212(a) of the  
24 Immigration and Nationality Act shall not  
25 apply.

1           (2) RELATIONSHIP OF APPLICATION TO CER-  
2       TAIN ORDERS.—An alien present in the United  
3       States who has been ordered excluded, deported, re-  
4       moved, or ordered to depart voluntarily from the  
5       United States under any provision of the Immigra-  
6       tion and Nationality Act may, notwithstanding such  
7       order, apply for adjustment of status under para-  
8       graph (1). Such an alien may not be required, as a  
9       condition on submitting or granting such applica-  
10      tion, to file a motion to reopen, reconsider, or vacate  
11      such order. If the Secretary of Homeland Security  
12      grants the application, the Secretary of Homeland  
13      Security shall cancel the order. If the Secretary of  
14      Homeland Security renders a final administrative  
15      decision to deny the application, the order shall be  
16      effective and enforceable to the same extent as if the  
17      application had not been made.

18      (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-  
19      TUS.—The benefits provided by subsection (a) shall apply  
20      to any alien who—

21           (1) is a national of Liberia; and

22           (2)(A) who was granted temporary protected  
23      status on or after March 27, 1991; or

24           (B) was eligible to apply for temporary pro-  
25      tected status on or after March 27, 1991.

1 (c) STAY OF REMOVAL.—

2 (1) IN GENERAL.—The Secretary of Homeland  
3 Security shall provide by regulation for an alien sub-  
4 ject to a final order of deportation or removal or ex-  
5 clusion to seek a stay of such order based on the fil-  
6 ing of an application under subsection (a).

7 (2) DURING CERTAIN PROCEEDINGS.—Notwith-  
8 standing any provision of the Immigration and Na-  
9 tionality Act, the Secretary of Homeland Security  
10 shall not order any alien to be removed from the  
11 United States, if the alien is in exclusion, deporta-  
12 tion, or removal proceedings under any provision of  
13 such Act and raises as a defense to such an order  
14 the eligibility of the alien to apply for adjustment of  
15 status under subsection (a), except where the Sec-  
16 retary of Homeland Security has rendered a final  
17 administrative determination to deny the application.

18 (3) WORK AUTHORIZATION.—The Secretary of  
19 Homeland Security may authorize an alien who has  
20 applied for adjustment of status under subsection  
21 (a) to engage in employment in the United States  
22 during the pendency of such application and may  
23 provide the alien with an “employment authorized”  
24 endorsement or other appropriate document signi-  
25 fying authorization of employment, except that if

1       such application is pending for a period exceeding  
2       180 days, and has not been denied, the Secretary of  
3       Homeland Security shall authorize such employment.

4       (d) ADJUSTMENT OF STATUS FOR SPOUSES AND  
5 CHILDREN.—

6           (1) IN GENERAL.—Notwithstanding section  
7       245(c) of the Immigration and Nationality Act, the  
8       status of an alien shall be adjusted by the Secretary  
9       of Homeland Security to that of an alien lawfully  
10      admitted for permanent residence, if—

11           (A) the alien is a national of Liberia;

12           (B) the alien is the spouse, child, or un-  
13      married son or daughter, of an alien whose sta-  
14      tus is adjusted to that of an alien lawfully ad-  
15      mitted for permanent residence under sub-  
16      section (a), except that in the case of such an  
17      unmarried son or daughter, the son or daughter  
18      shall be required to establish that they have  
19      been physically present in the United States for  
20      at least 1 year and is physically present in the  
21      United States on the date the application for  
22      such adjustment is filed;

23           (C) the alien applies for such adjustment  
24      and is physically present in the United States  
25      on the date the application is filed; and



1 (D) the alien is otherwise eligible to receive  
2 an immigration visa and is otherwise admissible  
3 to the United States for permanent residence,  
4 except in determining such admissibility the  
5 grounds for exclusion specified in paragraphs  
6 (4), (5), (6)(A), and (7)(A) of section 212(a) of  
7 the Immigration and Nationality Act shall not  
8 apply.

9 (2) PROOF OF CONTINUOUS PRESENCE.—For  
10 purposes of establishing the period of continuous  
11 physical presence referred to in paragraph (1)(B),  
12 an alien shall not be considered to have failed to  
13 maintain continuous physical presence by reason of  
14 an absence, or absences, from the United States for  
15 any periods in aggregate not exceeding 180 days.

16 (e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—  
17 The Secretary of Homeland Security shall provide to ap-  
18 plicants for adjustment of status under subsection (a) the  
19 same right to, and procedures for, administrative review  
20 as are provided to—

21 (1) applicants for adjustment of status under  
22 section 245 of the Immigration and Nationality Act;  
23 or

24 (2) aliens subject to removal proceedings under  
25 section 240 of such Act.

1       (f) LIMITATION ON JUDICIAL REVIEW.—A deter-  
2 mination by the Secretary of Homeland Security as to  
3 whether the status of any alien should be adjusted under  
4 this section is final and shall not be subject to review by  
5 any court.

6       (g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—  
7 When an alien is granted the status of having been law-  
8 fully admitted for permanent residence pursuant to this  
9 section, the Secretary of State shall not be required to re-  
10 duce the number of immigrant visas authorized to be  
11 issued under any provision of the Immigration and Na-  
12 tionality Act.

13       (h) APPLICATION OF IMMIGRATION AND NATION-  
14 ALITY ACT PROVISIONS.—Except as otherwise specifically  
15 provided in this section, the definitions contained in the  
16 Immigration and Nationality Act shall apply in the admin-  
17 istration of this section. Nothing contained in this section  
18 shall be held to repeal, amend, alter, modify, effect, or re-  
19 strict the powers, duties, functions, or authority of the  
20 Secretary of Homeland Security in the administration and  
21 enforcement of such Act or any other law relating to immi-  
22 gration, nationality, or naturalization. The fact that an  
23 alien may be eligible to be granted the status of having  
24 been lawfully admitted for permanent residence under this  
25 section shall not preclude the alien from seeking such sta-

1 tus under any other provision of law for which the alien  
 2 may be eligible.

## 3 **TITLE VII—FAIRNESS IN ASYLUM** 4 **AND REFUGEE PROCEEDINGS**

### 5 **SEC. 701. REFUGEE STATUS FOR UNMARRIED SONS AND** 6 **DAUGHTERS OF REFUGEES.**

7 Section 207(c)(2) of the Immigration and Nationality  
 8 Act (8 U.S.C. 1157(c)(2)) is amended by adding at the  
 9 end the following:

10 “(C) When warranted by unusual cir-  
 11 cumstances or to preserve family unity, the At-  
 12 torney General may, in the Attorney General’s  
 13 discretion, consider an unmarried son or daugh-  
 14 ter of a refugee to be a child of the refugee for  
 15 purposes of this paragraph.”.

### 16 **SEC. 702. ASYLEE STATUS FOR UNMARRIED SONS AND** 17 **DAUGHTERS OF ASYLEES.**

18 Section 208(b)(3) of the Immigration and Nationality  
 19 Act (8 U.S.C. 1158(b)(3)) is amended by adding at the  
 20 end the following:

21 “(C) When warranted by unusual cir-  
 22 cumstances or to preserve family unity, the At-  
 23 torney General may, in the Attorney General’s  
 24 discretion, consider an unmarried son or daugh-  
 25 ter of an alien who is granted asylum under

1           this subsection to be a child of the alien for  
2           purposes of this paragraph.”.

3 **SEC. 703. ELIMINATION OF ARBITRARY TIME LIMITS ON**  
4 **ASYLUM APPLICATIONS.**

5           Section 208(a)(2) of the Immigration and Nationality  
6 Act (8 U.S.C. 1158(a)(2)) is amended—

7           (1) by striking subparagraph (B);

8           (2) in subparagraph (C), by striking “(D),” and  
9           inserting “(C),”;

10          (3) in subparagraph (D)—

11               (A) by striking “subparagraphs (B) and  
12               (C),” and inserting “subparagraph (B),”;

13               (B) by striking “either”; and

14               (C) by striking “asylum or extraordinary”  
15               and all that follows through the period at the  
16               end and inserting “asylum.”; and

17          (4) by redesignating subparagraphs (C) and  
18          (D) as subparagraphs (B) and (C), respectively.

19 **SEC. 704. GENDER-BASED PERSECUTION.**

20          (a) TREATMENT AS REFUGEE.—Section 101(a)(42)  
21 of the Immigration and Nationality Act (8 U.S.C.  
22 1101(a)(42)) is amended by adding at the end the fol-  
23 lowing:

24               “(C) For purposes of determinations under  
25               this Act, a person who establishes that he or

1 she suffered persecution in the past, or has a  
 2 well-founded fear of persecution, on account of  
 3 gender shall be considered to have suffered per-  
 4 secution, or to have a well-founded fear of per-  
 5 secution, on account of membership in a par-  
 6 ticular social group.”.

7 (b) RESTRICTION ON REMOVAL TO COUNTRY WHERE  
 8 ALIEN WOULD BE THREATENED.—Section 241(b)(3) of  
 9 such Act (8 U.S.C. 1231(b)(3)) is amended by adding at  
 10 the end the following:

11 “(C) GENDER-BASED PERSECUTION.—For  
 12 purposes of determinations under this para-  
 13 graph, an alien who establishes that the alien’s  
 14 life or freedom would be threatened in a coun-  
 15 try on account of gender shall be considered to  
 16 have established that the alien’s life or freedom  
 17 would be threatened in that country on account  
 18 of membership in a particular social group.”.

19 **SEC. 705. ELIMINATION OF ARBITRARY CAP ON PERSONS**  
 20 **ELIGIBLE TO ADJUST STATUS FROM ASYLEES**  
 21 **TO LEGAL PERMANENT RESIDENTS.**

22 Section 209(b) of the Immigration and Nationality  
 23 Act (8 U.S.C. 1159(b)) is amended by striking “Not more  
 24 than 10,000 of the” and all that follows through “to ad-  
 25 just” and inserting “Subject to a numerical limitation de-

1 terminated by the President before the beginning of each  
 2 fiscal year, the Attorney General may adjust, in the Attor-  
 3 ney General's discretion and under such regulations as the  
 4 Attorney General may prescribe,".

## 5 **TITLE VIII—TEMPORARY** 6 **PROTECTED STATUS**

### 7 **SEC. 801. ADJUSTMENT OF STATUS FOR CERTAIN RECIPI-** 8 **ENTS OF TEMPORARY PROTECTED STATUS.**

9 (a) IN GENERAL.—Section 245 of the Immigration  
 10 and Nationality Act (8 U.S.C. 1255) is amended by add-  
 11 ing at the end the following:

12 “(n)(1) If, in the opinion of the Secretary of the  
 13 Homeland Security Department, a person granted tem-  
 14 porary protected status under section 244—

15 “(A) has been physically present in the United  
 16 States in that status for a continuous period of at  
 17 least 5 years;

18 “(B) has at all times been a person of good  
 19 moral character;

20 “(C) has never been convicted of a criminal of-  
 21 fense in the United States;

22 “(D) in the case of an alien who is 18 years of  
 23 age or older, but who is not over the age of 65, has  
 24 successfully completed a course on reading, writing,  
 25 and speaking words in ordinary usage in the English

1 language, unless unable to do so on account of phys-  
2 ical or developmental disability or mental impair-  
3 ment;

4 “(E) in the case of an alien 18 years of age or  
5 older, has accepted the values and cultural life of the  
6 United States; and

7 “(F) in the case of an alien 18 years of age or  
8 older, has performed at least 40 hours of community  
9 service;

10 the Secretary may adjust the status of the alien to that  
11 of an alien lawfully admitted for permanent residence.

12 “(2) An alien shall not be considered to have failed  
13 to maintain a continuous presence in the United States  
14 for purposes of subsection (a)(1) by virtue of brief, casual,  
15 and innocent absences from the United States.

16 “(3)(A) The alien shall establish that the alien is ad-  
17 missible to the United States as immigrant, except as oth-  
18 erwise provided in paragraph (2).

19 “(B) The provisions of paragraphs (5), (6)(A),  
20 (6)(B), (6)(C), (6)(F), (6)(G), (7)(A), (9)(B), and  
21 (9)(C)(i)(I) of section 212(a) shall not apply in the deter-  
22 mination of an alien’s admissibility under this section.

23 “(4) When an alien is granted lawful permanent resi-  
24 dent status under this subsection, the number of immi-  
25 grant visas authorized to be issued under any provision

1 of this Act shall not be reduced. The numerical limitations  
2 of sections 201 and 202 shall not apply to adjustment of  
3 status under this section.

4 “(5) The Secretary of Homeland Security may termi-  
5 nate removal proceedings without prejudice pending the  
6 outcome of an alien’s application for adjustment of status  
7 under this section on the basis of a prima facie showing  
8 of eligibility for relief under this section.”.

9 (b) LIMITATION ON CONSIDERATION IN THE SENATE  
10 OF LEGISLATION ADJUSTING STATUS.—Section 244 of  
11 the Immigration and Nationality Act (8 U.S.C. 1254a) is  
12 amended by striking subsection (h) and redesignating sub-  
13 section (i) as subsection (h).

14 **SEC. 802. FOREIGN STATE DESIGNATIONS.**

15 Section 244(b)(1)(C) of the Immigration and Nation-  
16 ality Act (8 U.S.C. 1254a(b)(1)(C)) is amended to change  
17 the following phrase “the Attorney General finds that  
18 there exist extraordinary and temporary conditions in the  
19 foreign state that prevent aliens who are nationals of the  
20 state from returning to the state in safety,” so that it  
21 reads as follows: “the Secretary of Homeland Security  
22 finds that extraordinary and temporary conditions in the  
23 foreign state make returning aliens to the state undesir-  
24 able for humanitarian reasons,”.



1 **SEC. 803. TECHNICAL CORRECTION.**

2 Section 244 of the Immigration and Nationality Act  
3 (8 U.S.C. 1254a) is amended by striking “Attorney Gen-  
4 eral” each place such term appears and inserting “Sec-  
5 retary of Homeland Security”.

6 **TITLE IX—MISCELLANEOUS**  
7 **PROVISIONS**

8 **SEC. 901. PHYSICAL PRESENCE REQUIREMENT.**

9 Section 316(a) of the Immigration and Nationality  
10 Act (8 U.S.C. 1427) is amended by adding at the end the  
11 following:

12 “When warranted by extraordinary circumstances,  
13 the Secretary of Homeland Security may reduce, by not  
14 more than 90 days, the physical presence requirement de-  
15 scribed in the preceding sentence.”.

16 **SEC. 902. ABSENCES FROM THE UNITED STATES.**

17 Section 316(b) of the Immigration and Nationality  
18 Act (8 U.S.C. 1427(b)) is amended—

19 (1) in the first sentence, by striking “one year”  
20 and inserting “18 months”; and

21 (2) in the second sentence, by striking “contin-  
22 uous period of one year” and inserting “continuous  
23 period of 18 months”.

1 **SEC. 903. ELIMINATING THE WIDOWED IMMIGRANT'S 2-**  
2 **YEAR MARRIAGE PENALTY.**

3 Section 201(b)(2)(A)(i) of the Immigration and Na-  
4 tionality Act (8 U.S.C. 1251(b)(2)(A)(i)) is amended—

5 (1) by striking “for at least 2 years”; and

6 (2) by inserting “, proves by a preponderance  
7 of the evidence that the marriage was entered into  
8 in good faith and not for the purpose of obtaining  
9 an immigration benefit,” after “within 2 years after  
10 such date”.

11 **SEC. 904. ELIMINATE THE WIDOWED PERMANENT RESI-**  
12 **DENT'S NATURALIZATION PENALTY.**

13 Section 319(a) of the Immigration and Nationality  
14 Act (8 U.S.C. 1429(a)) is amended by inserting “or, if  
15 the spouse is deceased, the spouse was a citizen of the  
16 United States,” after “(a) Any person whose spouse is a  
17 citizen of the United States,”.

18 **SEC. 905. ELIMINATION OF BAN ON STATE AND LOCAL GOV-**  
19 **ERNMENTS FROM PREVENTING COMMUNICA-**  
20 **TIONS WITH THE DEPARTMENT OF HOME-**  
21 **LAND SECURITY.**

22 (a) IN GENERAL.—Section 642 of the Illegal Immi-  
23 gration Reform and Immigrant Responsibility Act of 1996  
24 (8 U.S.C. 1373) is repealed.

25 (b) VERIFICATION OF ELIGIBILITY FOR FEDERAL  
26 PUBLIC BENEFITS.—Section 432 of the Personal Respon-

1 sibility and Work Opportunity Reconciliation Act of 1996  
2 (8 U.S.C. 1642) is repealed.

3 **SEC. 906. ELIMINATION OF AUTHORITY TO PERMIT STATE**  
4 **PERSONNEL TO CARRY OUT IMMIGRATION**  
5 **OFFICER FUNCTIONS.**

6 Section 287(g) of the Immigration and Nationality  
7 Act (8 U.S.C. 1357(g)) is repealed.

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